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Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

Report of the Secretary-General*

I. Introduction

1. The General Assembly, in paragraph 11 of its resolution 61/262, requested the Secretary-General to submit a report to the Assembly at its sixty-second session on options for designing pension schemes for the members of the International Court of Justice and the judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, including defined-benefit and defined-contribution schemes, taking into account the possibility of calculating pensions on the basis of the number of years served rather than the term of office.

2. The present report is submitted in compliance with the foregoing request. In order to facilitate consideration of the issues, the report has been divided into the following sections: background; review of the current pension scheme provisions; analysis of the consulting firm's findings and recommendations; conclusions regarding the pension scheme regulations for the Court and the Tribunals; financial implications; and next comprehensive review.

* The submission of the report was delayed owing to the need to conduct several rounds of extensive consultations with responsible officials.

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II. Background

International Court of Justice

3. Members of the International Court of Justice are entitled to retirement pensions in accordance with Article 32, paragraph 7, of the Statute of the Court, the specific conditions of which are governed by regulations adopted by the General Assembly. From 11 December 1963 until 1 January 1991, pensions constituted half the annual salary of a judge who completed a full nine-year term, with a proportional reduction for a judge who did not complete a full term. A judge who was re-elected received one six-hundredth of his or her annual salary for each further month of service, up to a maximum pension of two thirds of annual salary.

4. With the adoption of General Assembly resolution 45/250, the pension entitlement was changed to a fixed amount. As from 1 January 1991, a member of the Court who had ceased to hold office, had reached the age of 60 and had served a full term of nine years was entitled to receive an annual pension benefit of US$ 50,000, with a proportional reduction for a judge who had not completed a full term. For a member of the Court who was re-elected, the pension entitlement was increased by an additional $250 per month for each further month of service, up to a maximum pension of $75,000 a year.

5. A review of the pension benefits and the corollary aspects of the pension scheme for the members of the International Court of Justice were presented in the reports of the Secretary-General to the General Assembly at its forty-eighth, forty-ninth, fiftieth and fifty-third sessions (A/C.5/48/66, A/C.5/49/8, A/C.5/50/18 and A/C.5/53/11).

6. During the fifty-third session of the General Assembly, in compliance with the request of the Assembly, the Secretary-General provided an actuarial analysis covering the design of the pension scheme for the members of the International Court of Justice, the methodology used to determine pensionable remuneration, contributory participation and retirement benefits, including early retirement and surviving spouse pension benefits (see A/C.5/53/11).

7. On the basis of the analysis and findings of the report of the consulting actuary, the Secretary-General believed that the pension scheme for the members of the International Court of Justice should provide adequate after-service benefits to judges having met the requisite eligibility criteria relating to retirement age and period of service based on the premise that the pension benefit maintains a standard of living as replacement income.

8. At the same session, the Advisory Committee on Administrative and Budgetary Questions agreed with the recommendations made by the Secretary-General in paragraph 40 (a), (c), (d) and (f) of his aforementioned report, concerning revisions to the pension scheme regulations of the members of the International Court of Justice (see A/53/7/Add.6, paras. 15-17). Those revisions related to the level of the retirement pension, the fact that the pension scheme should be non-contributory, the introduction of an actuarial reduction factor at a rate of one half of one per cent per month being applied in the case of early retirement and upon the remarriage of a surviving spouse, and the granting of a lump sum equal to twice the amount of the spouse's current annual benefit as a final settlement. However, in paragraph 18 of its report, the Advisory Committee pointed

out that the pension benefit would be based on half the annual salary of $160,000, that is, $80,000. Under the circumstances, the Committee did not believe it was necessary to continue increasing pension benefits for judicial service in excess of nine years, especially since the Court pension scheme was non-contributory, and, in paragraph 19, recommended that henceforth there no longer be an increase in pension benefit for re-elected judges. The Committee also recommended in paragraph 20 that pensions in payment be automatically revised by the same percentage and at the same date as salary adjustments.

9. In section VIII, paragraph 1, of its resolution 53/214, the General Assembly approved the recommendations of the Advisory Committee on the emoluments, pensions and other conditions of service of members of the International Court of Justice.

Tribunals

10. With regard to the pension benefits of the judges of the Tribunals, it has been recalled that the General Assembly, in section VIII, paragraph 6, of its resolution 53/214, approved the pension scheme regulations for the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, respectively. The Assembly approved a pension scheme for the judges of the Tribunals on the basis of the recommendations contained in paragraph 29 of the aforementioned report of the Advisory Committee on Administrative and Budgetary Questions, whereby the Advisory Committee recommended that, the pension benefit for the judges of the two Tribunals be based on that applicable to the judges of the International Court of Justice, prorated to account for the difference in length in the terms of appointment, that is to say, nine years for the members of the Court versus four years for the judges of the two Tribunals.

11. On the occasion of the comprehensive reviews of the conditions of service and the pension benefits of the judges undertaken in 2001 and 2006, the Secretary-General shared the concerns expressed by the two Tribunals that the existing disparity between the pension benefits of the judges of the Tribunals and of the judges of the International Court of Justice results in discrimination against the judges of the Tribunals not warranted by the statute of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda. As the General Assembly is the sole authority to determine the conditions of service and the pension benefits of the judges of the Tribunals and of the judges of the Court, the matter was brought once again to the attention of the Assembly for its consideration, in the light of the arguments and proposals put forward by the President and the Registrar of the International Tribunal for the Former Yugoslavia and the President and Registrar of the International Criminal Tribunal for Rwanda on the occasion of the review undertaken at the sixty-first session.

12. In paragraph 10 of its resolution 61/262, the General Assembly decided to maintain, as an interim measure, the retirement benefits of the members of the International Court of Justice and the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda at the level resulting from the annual base salary decided in section III of its resolution 59/282 and requested the Secretary-General to revise article 1, paragraph 2, of the Pension Scheme Regulations accordingly.

III. Review of the current pension scheme provisions

13. In compliance with the request of the General Assembly contained in paragraph 11 of its resolution 61/262, the Secretary-General sought the advice of a consulting firm and commissioned a study on options for designing pension schemes, including defined-benefit and defined-contribution schemes, taking into account the possibility of calculating pensions on the basis of the number of years served rather than the term of office. The firm that undertook the study is Mercer Human Resource Consulting.

14. The consulting firm concluded that most of the provisions of the respective pension scheme regulations adopted by the General Assembly in respect of the members of the Court and the judges of the Tribunals are not unreasonable, including, but not limited to, the basic target levels of benefits delivered and the provision of death and disability benefits. However, the firm believes there are some inconsistencies under the schemes as well as areas of potential improvement. The key findings of the study are summarized below. In referring to the consulting firm's study, it is noted that the International Court of Justice, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda are collectively referred to as "the Courts".

(a) *Rate of pension accrual.* The consulting firm found that although there is inherent consistency between the rates of pension accrual awarded in the three Courts or to the judges within a given Court when considering only a single term of judicial service, the consistency no longer holds from Court to Court or from judge to judge within a given Court when the effect on pension benefits resulting from multiple terms of service is considered. That would appear to be a significant departure from the intended goals of the initial scheme designs exacerbated by the longevity of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda as well as the prevalence of judges working multiple terms. Should the United Nations deem it appropriate to address that situation through a change to the current scheme provisions, alternative options exist, including eliminating the current service limits, increasing the current service limits, or actuarially increasing target amounts for years of service rendered beyond the initial term, with perhaps an overall benefit limitation of 100 per cent of the final year's remuneration;

(b) *Age of retirement.* The consulting firm noted that, currently, all three schemes employ a normal retirement age of 60. Given the fact that the expected retirement age for judges under all three schemes is well over age 60, in addition to the fact that all other schemes surveyed in the study employ a normal retirement age well in excess of age 60, with an average retirement age of 65, age 60, as used in the schemes, is arguably too low; however, given the sui generis nature of the plans under consideration, caution should be exercised prior to increasing the retirement age, as the resulting reduction in value of benefits received for judges who retire prior to age 60 may not be desirable;

(c) *Benefit suspension feature.* The consulting firm observed that all three pension schemes currently employ a benefits suspension feature whereby judges cannot begin receiving their pensions until they retire. Although that

feature is employed commonly in modern pension schemes, given the fact that benefits do not increase for service beyond the initial term (for post-1998 judges) in the schemes under consideration, should the United Nations decide to maintain the current limitations on service recognized for the accrual of pension benefits, consideration might be given to eliminating the current suspension of benefits feature;

(d) *Adjustments to pensions in payment.* The consulting firm noted that although the current practice of providing cost of living increases is not unreasonable, consideration should be given to creating a practice of regular application of cost of living increases, with annual increases for the deterioration in buying power that may otherwise result owing to the forces of inflation. In addition, although an additional component to respond to fluctuations in the United States dollar is not unreasonable, given the number of judges in question as well as the potential number of countries of ultimate permanent residence, it would appear that a simple process would be beneficial not only in terms of administration but also to support the regular application of such increases. Consideration might be given to employing such a process.

(e) *Pension scheme design.* With regard to the design of the pension schemes, the consulting firm concluded that the current defined benefit delivery mechanism of the Courts' pension schemes is not unreasonable.

15. The detailed comprehensive discussion paper based on the consulting firm's findings is available in the files of the Secretariat.

IV. Analysis of the findings and recommendations of the consulting firm

16. In compliance with the request of the General Assembly, the analysis of the findings of the consulting firm is as follows:

(a) *Rate of benefit accrual.* Concerning the rate of benefit accrual under the pension scheme for the members of the International Court of Justice and the pension schemes for the judges of the two Tribunals, the consulting firm has considered that:

(i) The target pension offered under the International Court of Justice scheme is significantly higher than that offered under both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia schemes; when analysed in conjunction with the period of service required to achieve such targets, the benefits are analogous or proportional. Stated differently, the annual pension amount accumulated for each given year of service, commonly referred to as the rate of benefit accrual, is identical;

(ii) The use of that standard rate of benefit accrual when comparing pension schemes which, although separate and distinct, are clearly related, is not uncommon. The basic argument for the standard use of a common rate is more understandable when one considers the result achieved if such rates of accrual were not consistent. Currently, a judge serving on the International Court of Justice who renders nine years of

service is awarded a pension which is exactly nine fourths as valuable as the pension awarded to a judge who serves on the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda and renders four years of service. And each judge receives a rate of benefit accrual of 5.55 per cent per year of rendered service, valuing a given period of service equitably in the three Courts. An approach not consistent with this philosophy can be argued as not valuing a given period of service equitably across the various courts. In addition, the practice of not giving equal value to a given period of service equitably across the various Courts would be inconsistent with the current practice of awarding the same level of basic remuneration in the three Courts. Therefore, the consulting firm assumes that that initial consistency in the three schemes was fundamental to the provisions now in place;

(iii) Owing to the limitations on service recognized under the schemes, that consistency no longer holds in instances where judges render service for multiple terms. In such instances, a departure from consistency is seen not only when comparing the rate of benefit accrual for judges across schemes but also when comparing the rate of benefit accrual for judges within a given scheme;

(iv) As an example of the departure from consistency for judges across schemes, a post-1998 member of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda who serves two full terms (of four years each) still receives only 22.22 per cent of the final year's remuneration as the pension award. Given that the pension is fully accrued by the judge immediately upon the completion of his or her initial four-year term, the rate of accrual can be described as an initial rate of 5.55 per cent for the first four years rendered and a rate of 0 per cent for each year thereafter. The net effect is to recognize service rendered beyond the initial term as less valuable than service rendered within the initial term;

(v) As an example of the departure from consistency for judges across schemes, a member of the International Court of Justice who embarks on a second term of service also receives no increases in his target 50 per cent pension award (other than certain exceptions for pre-1999 members) and thus also accrues 5.55 per cent for the first nine years rendered and a rate of 0 per cent for each year thereafter. Again, the net effect is to recognize service rendered beyond the initial term as less valuable than service rendered within the initial term;

(vi) In addition, for members serving subsequent terms who are either already 60 years of age or who attain the age of 60 during the subsequent term, the actuarial value of the pension ultimately received by the judge (as pensioner) decreases significantly. That is due to the fact that pensions are payable in full at age 60 (without actuarial reduction). Deferring payment of such pensions beyond age 60 without increasing the amount of such pensions reduces the value delivered to such judges since ultimately their pension annuities will be payable over a shorter lifespan;

(vii) Historically, it has not been uncommon for members of the Courts to render service beyond the initial term. The average expected length of service rendered by judges of the International Court of Justice is 12 years (including judges who serve full multiple terms and those completing the remaining terms of judges who have deceased). Analogously, the average expected length of service rendered by judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda is eight and seven years, respectively;

(viii) On the basis of observations, although there is inherent consistency between the rates of pension accrual awarded in the three Courts or among judges within a given Court when considering only a single term, a significant departure from such consistency has resulted, given the prevalence of judges working multiple terms. In addition, given that pension accruals are generally viewed as a component of remuneration for services rendered, albeit deferred until retirement, and given that the level of basic remuneration is applied equally for judges in the three Courts and among judges within a given Court for both single or multiple terms, not offering the same level of pension accruals would appear to be inconsistent with the Organization's overall benefits package for judicial members;

(ix) Should the United Nations deem it appropriate to address that situation through a change to the current scheme provisions, alternative options exist. Perhaps the most straightforward approach would be to eliminate or increase the current limits on service recognized under the schemes, with perhaps an overall resulting benefit limitation of 100 per cent of final pay. An alternative but arguably more administratively complex approach would be to employ a method of actuarially increasing target amounts for years of service rendered beyond the initial term;

(b) *Age of retirement.* The pension schemes of the Court and the Tribunals, provide for a normal retirement age of 60. The consulting firm observed that, given the fact that the expected retirement age for judges under all three schemes is well over age 60, in addition to the fact that all other schemes surveyed in the study employ a normal retirement age well in excess of age 60, with an average retirement age of 65, the use of age 60 in the schemes is arguably too low; however, given the sui generis nature of the plans under consideration, caution should be exercised prior to increasing the retirement age, as the resulting reduction in value of benefits received for judges who retire prior to age 60 may not be desirable;

(c) *Benefit suspension.* The consulting firm noted that the three schemes currently suspend the payment of pension benefits until all service (on any of the three Courts) is completed. Suspension of benefits is a feature quite common across pension schemes, the basic premise being that pension benefits should be for the exclusive purpose of post-retirement income. The consulting firm observed that although the nature of benefits for the Courts is different given the relative advanced ages of the judges as well as the cost-neutral structure of the schemes' early retirement provision, the loss of a judge

who would otherwise have continued service but for the fact he or she is no longer accruing pension benefits is not an unreasonable response. Therefore, should the United Nations decide to maintain the current limitations on service recognized for the accrual of pension benefits, consideration might be given to eliminating the suspension of benefits feature under the schemes;

(d) *Design of the pension scheme: defined benefit versus defined contribution.* With regard to the design of the pension scheme, the consulting firm observed that:

(i) There is a current trend in many jurisdictions around the world, perhaps most vividly in the United Kingdom of Great Britain and Northern Ireland and the United States of America, away from defined benefit programmes in favour of defined contribution programmes as the pension delivery mechanism of choice;

(ii) In order to fully understand that phenomenon, it is important first to understand the basic differences between the two. In general, defined benefit programmes offer a benefit to covered members which is fully determinable at the onset of their career, given certain assumptions as to the length and continuity of service as well as, if applicable, their salary pattern. Benefits are usually defined in terms of an annuity payable for the life of each member upon retirement and, in general, offer protection to beneficiaries in the event of the member death. The sponsor of such a programme may or may not pre-fund for the payment of ultimate benefits; however, pre-funding is more often encountered in jurisdictions like the United States where it is a requisite for tax advantages afforded to entities that sponsor such plans. Fundamental to such programmes is the fact that the risks associated with the investment of any underlying assets as well as the mortality patterns of covered members are fully borne by the plan's sponsor;

(iii) In contrast, defined contribution programmes generally offer an annual allocation to covered members, who then are afforded the opportunity to invest such allocation among a choice of investments provided under the programme. Again, given certain restrictions on the withdrawal of amounts received, tax advantaged savings and accumulation are made available. Benefits payable under such programmes are usually defined in terms of a segregated account payable in one lump sum at retirement. Since covered members are responsible for their own investment decisions during their careers as well as the investment of the ultimate lump sum award at retirement, all the risks inherent in such investment decisions as well as those associated with longevity post-retirement are fully borne by covered members;

(iv) Both defined benefit and defined contribution programmes can be designed with or without the requirement of member contributions, although it is often more common for defined contribution programmes rather than defined benefit programmes to require such contributions. It is also important to note that the benefits offered under one programme are in no way necessarily larger or smaller than those offered under the other programme and are solely a function of the official terms of the plans.

(v) Given that background and the consulting firm's extensive exposure and involvement with discussions on plan design with its body of clients, the primary reason for sponsors moving from defined benefit schemes to defined contribution schemes is to avoid exposure to the risks of maintaining responsibility for any underlying investments, including not only the potential for sub-par asset performance but also the potential impact the swings in asset performance can have on institutions' financial statements;

(vi) With that said, because the consulting firm believes the risks associated with the need to subsist securely in retirement should not be borne fully by employees who are less expert in investing than sponsors with access to much broader investment resources; because annuity forms of payment are better suited to protect individuals in retirement, in particular, as mortality trends improve over time; because of the numerous studies which point to the fact that individuals do not invest as efficiently or successfully as sponsors with access to professional investment assistance; and given the demographics of the judges under the Courts' schemes (including, notably, their advanced age and the fact that the shorter the investment horizon, the greater the difficulty in accumulating sufficient retirement income under a defined contribution scheme), the firm believes that not only is the current defined benefit approach not unreasonable but also it is arguably preferable to a defined contribution approach.

V. Conclusions regarding the pension schemes for the judges of the International Court of Justice, of the International Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda

17. The Secretary-General would conclude that the study conducted by the firm corroborates in technical terms most of the provisions provided for in the current respective pension schemes approved by the General Assembly for the members of the International Court of Justice and the judges of the International Tribunals.

18. The Secretary-General would also recall some principles which he deems should be taken into consideration in arriving at a revised system for calculating the pensions of the members of the International Court of Justice and, in turn, the judges of the Tribunals. He is of the view that the system adopted must ensure that the current level of pension for sitting members of the Court and judges of the Tribunals, and for those judges and their dependants who are currently receiving pensions is not diminished.

19. In that regard, the Secretary-General has recalled the Court's position on the issue as set out, inter alia, in paragraph 77 of the document transmitted by the President of the International Court of Justice to the Secretary-General on the implications of General Assembly resolution 61/262 in regard to certain provisions of the Statute of the Court (A/62/538, annex II), which states:

> "it is quite clearly unthinkable that the application of the new system for calculating the emoluments of judges should result in a dramatic decrease in

the pension benefits to which they are entitled. Thus, given the current level of pensions of $85,040 per annum, the reference annual level of emoluments to calculate the pension of a judge after a full nine-year term could not in any case be less than $170,080".

20. As mentioned in paragraph 12 above, the General Assembly decided, in paragraph 10 of its resolution 61/262, to maintain, as an interim measure, the retirement benefits of the members of the International Court of Justice and the judges of the Tribunals at the level resulting from the annual base salary decided in section III of its resolution 59/282, which amounted to $170,080. On 3 April 2008, the Assembly approved the annual remuneration of members of the Court and judges of the Tribunals at a base salary of $158,000 plus post adjustment. It is apparent from the consulting firm's report that the authors did not take into account the possibility that the remuneration of members of the Court was going to be changed from a salary system to a base salary and post adjustment system, and that, as a consequence, the "base salary" component was going to be reduced from the "salary" that the firm took into account when describing the "current" pension scheme. For that reason, there is no discussion in the firm's report of the impact of that reduction on sitting members of the Court and on judges and their dependants currently receiving pensions. As the present report is being submitted following the decision taken by the Assembly on the issue of remuneration, it appears appropriate that the Assembly should take note of that reduction and its effect on the calculation of pensions, and propose a transitional measure or a method of calculation that would, in its view, be appropriate under such circumstances. As noted in paragraph 16 (a) above, the consulting firm indicated that pension accruals are generally viewed as a component of remuneration, albeit deferred until retirement. Under those circumstances, decreasing the pensions of sitting judges as well as current pensioners would in effect be reducing retroactively the level of remuneration of members of the Court while in office, which could present difficulties under Article 32 (5) of the Statute of the Court.

21. It is generally accepted that pensions are calculated on the highest salary of the beneficiary. That salary is usually the level of salary earned prior to retirement. On that basis, the Secretary-General considers that, in proposing a new method for calculating pensions, the Court's existing pensioners and sitting members should benefit from the highest salary they earned while serving on the Court. Using a reference salary which excludes the post adjustment component means that the reference salary would be lower than the salary previously being earned.

22. Finally, it would be inequitable and contrary to fundamental principles espoused by the United Nations if the pensions of retired judges and their dependants were decreased by such a large amount, in particular as those amounts have been frozen for a significant period of time while their value in real terms has already diminished considerably. Regarding sitting judges, the Secretary-General also notes a dramatic decrease in what they could expect to receive when they retire: in its report, the consulting firm indicates that it is generally held that a total post-retirement income stream of at least 75 per cent to 85 per cent of pre-retirement income is a reasonable target and considers that the current system, based on 50 per cent, is not overly generous. In that connection, the Secretary-General would note the Court's comment that, calculating current income as base salary plus post adjustment, a member of the Court retiring in April 2008 after serving a full term of office would receive less than 30 per cent of his or her present income.

23. In the light of those principles, the Secretary-General would like to set out briefly below some ideas he considers might be worthy of consideration when elaborating a new pension scheme. In that connection, it should be borne in mind that there exist several pension regimes for members of the Court and the judges of the Tribunals, based on the scheme applicable at the time they retired, each of which would need to be protected under the new scheme.

24. One approach, envisaged by the consultants who issued a report on the issue of the pensions of the members of the Court in 1995 (see A/C.5/50/18), would be to calculate the pension based on the base salary plus post adjustment or a fraction thereof. That approach could ensure that the pensions of sitting and retired judges would not diminish and would have the added value of addressing the problem of protecting pensions against the deterioration in buying power owing to the forces of inflation and fluctuations in the United States dollar. The Secretary-General would note that the latter element is a key finding in the current consulting firm's study as well and is noted as a concern in paragraph 14 (d) above.

25. Another approach would be to calculate the pension with reference to the base salary without post adjustment but increasing the percentage from 50 per cent to 55 per cent of the net base salary. That approach would result in protecting the pension rights of most (but not all) of the sitting and retired judges; the rights of those who were elected prior to 1 January 1999 and who have or will have served two full terms would not be protected. If that approach were coupled with the setting of a maximum pension at three fourths of annual net base salary, the pension rights of all current and former judges would be protected. However, that approach would only protect pensions against cost of living increases to the extent that increases in the base salary permit and would not address the consequences of fluctuations in the United States dollar.

26. Finally, another possible approach would be to base the calculation of pensions on the current level used ($170,080), which could be adjusted by the percentage of increases in the annual net base salary of members of the Court. Once again, that approach would only protect pensions against cost of living increases to the extent that increases in the base salary permit and would not address the consequences of fluctuations in the United States dollar.

27. In the light of the conclusions of the study and taking into consideration the approaches set out above, the Secretary-General would recommend the following:

International Court of Justice

(a) The pension scheme for the members of the International Court of Justice should remain a defined-benefit scheme;

(b) The pension scheme should remain non-contributory;

(c) The retirement benefit of the members of the International Court of Justice should continue to be correlated to salaries, as are judicial and other pensions, and should be defined as being equal to 55 per cent of the annual net base salary (excluding post adjustment) by reference to 9 years of service;

(d) The level of pension should be determined by reference to years of service rather than a term of office;

(e) A member of the International Court of Justice who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month of service, up to a maximum pension of three fourths of annual net base salary (excluding post adjustment);

(f) The retirement age should remain at 60 years of age;

(g) The actuarial reduction factor, at a rate of 0.5 per cent per month, should continue to be applied in the case of early retirement prior to age 60;

(h) The level of the retirement benefit should be adjusted on the occasion of increases in the annual net base salary of the members of the International Court of Justice;

(i) Pensions in payment should also be adjusted on the occasion of increases in the annual net base salary of the members of the International Court of Justice;

Tribunals

(a) The pension scheme for the judges of the International Tribunal for the Former Yugoslavia and the judges of the International Criminal Tribunal for Rwanda should, respectively, remain a defined-benefit scheme;

(b) The pension schemes should remain non-contributory;

(c) The retirement benefit of the judges of the Tribunals should continue to be correlated to salaries, as are judicial and other pensions, and should be defined as being equal to 55 per cent of the annual net base salary (excluding post adjustment), assuming completion of a period of service of 9 years;

(d) The level of pension should be determined by reference to years of service rather than a term of office;

(e) A judge of the International Tribunal for the Former Yugoslavia or of the International Criminal Tribunal for Rwanda who has or will be re-elected or extended for any subsequent term will receive a retirement benefit for each further month of service, by reference to the proportion of annual pension which the number of months of his or her service bears to 108 months;

(f) A judge of the International Tribunal for the Former Yugoslavia or of the International Criminal Tribunal for Rwanda who has been or will be re-elected should receive one three-hundredth of his or her retirement benefit for each further month of service, up to a maximum pension of three fourths of annual net base salary (excluding post adjustment);

(g) The retirement age should remain at 60 years of age;

(h) The actuarial reduction factor, at a rate of 0.5 per cent per month, should continue to be applied in the case of early retirement prior to age 60;

(i) The level of the retirement benefit should be adjusted on the occasion of increases in the annual net base salary of the judges of the Tribunals;

(j) Pensions in payment should also be adjusted on the occasion of increases in the annual net base salary of the judges of the Tribunals.

28. Should the foregoing proposals with regard to pensions be found acceptable, the Secretary-General would propose that the Registrar of the International Court of

Justice and the Registrars of the International Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda, respectively, amend the pension scheme regulations accordingly.

VI. Financial implications

29. Should the General Assembly approve the proposals contained in paragraph 27 above, the related programme budget implications of the changes proposed in the pension scheme for the members of the International Court of Justice and in the pension scheme for the judges of the International Tribunal for the Former Yugoslavia and of the judges of the International Criminal Tribunal for Rwanda, as reflected in the table below, would be considered in the context of the relevant performance reports for the biennium 2008-2009.

Table
Programme budget implications of the proposals contained in paragraph 27 above
(United States dollars)

	Additional requirements for the biennium 2008-2009
Members of the International Court of Justice	8 800
Judges of the International Tribunal for the Former Yugoslavia	1 054 200
Judges of the International Criminal Tribunal for Rwanda	476 100

VII. Next comprehensive review

30. In its resolution 56/285, the General Assembly decided that the conditions of service and remuneration for the members of the International Court of Justice, the judges of the two Tribunals and the ad litem judges of the International Tribunal for the Former Yugoslavia should next be reviewed at its fifty-ninth session. In section III, paragraph 9, of its resolution 59/282, the Assembly decided that the conditions of service and remuneration for the members of International Court of Justice, the judges of the two Tribunals and the ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda should next be reviewed at its sixty-first session. Should the Assembly decide to revert to the three-year review cycle, the next comprehensive review by the Assembly would be undertaken at its sixty-fifth session, in 2010.